

Newfields Planning Board Meeting Minutes
July 9, 2020

Attendance: Chairman John Hayden, Mike Price, Jeff Feenstra, Bill Meserve, Town Planner Glenn Greenwood and Selectmen's Representative Jamie Thompson. Absent from the meeting was Mike Todd and Jeff Couture.

Guests: Engineer Dan MacRitchie, Attorney John Cronin, Julie LaBranche, Gayle Davis, Larry Averill, Luke Hurley, Robert Peterson, Bobby Kelly, Kyle Engle and James Mitchell.

John Hayden called the meeting to order at 7pm.

Old Lee Rd-Lot Line Adjustment and 6-Lot Subdivision –Continued Hearing-Map 208 Lot 14 & 15

Attorney Cronin stated that a lot of time and effort from all parties has been put into this application going back to the original proposal for 11 lots to this dramatically reduced 6 lot proposal. Additionally, the road has been redesigned using feedback from the Board. It has been many months that the applicant has been before the Board and they would like to get a decision tonight. The applicant has done as much as they can do to address concerns and meet the many requests that have come up. They realize this is supposed to be a collaborative process, but they are at their limit. They will do their best to answer any questions tonight regarding the additional information provided on wetlands. At the conclusion of the meeting, the applicant requests the Board vote on this proposal.

Engineer Dan MacRitchie gave an update on the status of the project. At the last meeting the applicant was asked to provide a construction sequence for the road work and to have an Environmental Impact Assessment completed. Both documents were submitted on July 3, 2020. They are looking for a wetlands conditional use permit, cul-de-sac waiver, and conditional approval tonight. RCCD has done a review of the engineering, wetlands delineation, and septic system test pits. NHDES has reviewed and approved the proposal for the wetlands work, which is classified as a minor project and the proposal is the alternative with the least adverse impacts. The NH Heritage Bureau has reviewed the plan and has no further comments or concerns. NH Fish and Game has done an extensive review and concluded the applicant has coordinated and sufficiently implemented their recommendations into the project design. The Army Corps of Engineers has concluded that the NH permit conditions have been met.

John Hayden asked if all the Board members had received the Environmental Impact Assessment from Gove Environmental. Bill Meserve mentioned that he just received the 102-page document this morning and added that this is not what the Board asked for. They wanted the Newfields Conservation Commission to hire someone to complete the assessment. He doesn't understand why the applicant had Gove provide it.

Glenn Greenwood stated that the deadline for the Environmental Impact Assessment was Friday July 3rd. The understanding at last month's meeting was that the Conservation Commission was going to come up with an environmental consultant to do the work and provide a report. Glenn contacted Mr. MacRitchie mid-month and found out the applicant was using their consultant for the Environmental Assessment. Glenn received his copy on Monday July 6th and he was under the assumption that all Board members had received it the same day. The document was sent out again the morning of July 9th.

John Hayden said that he had received correspondence from Glenn regarding the applicant moving forward with their own consultant to develop the Environmental Impact Assessment. He did not see harm in having Gove provide the assessment, but the Town is not in the position to just accept it without peer review from the Town's professional.

Mike Price added that last month's meeting minutes state, "Glenn would work with the Conservation Commission to find a consultant to provide the Environmental Impact Assessment. Jeff Couture will assist Steve Shope in finding a consultant to perform the study. The cost will be paid by the applicant". The Board was supposed to hire the consultant.

Glenn had spoken to Robert Peterson and he was unwilling to waiver from his opinion that his specialist would prepare the report. At that point, he indicated to the Board that an alternative would be to have the Gove report reviewed by our consultant. John Hayden said the alternative is appropriate. There has been no review by the Town.

Dan MacRitchie said he did not receive the meeting minutes until June 23rd. He did not receive any direction from the Conservation Commission. He had asked Sue to read the exact motion to him and it said the applicant was required by July 3rd to provide an assessment report to the Board. They had limited time and no direction. He remembers the discussion of having Steve Shope recommend a consultant but didn't remember it being a requirement. It was not in the motion. He read the motion.

A motion was made by Mike Todd and seconded by Bill Meserve to request the applicant to complete an Environmental Impact Assessment per the request of the Conservation Commission in order to assist the planning board with the assessment of the conditional use permit in regard to the wetland permit.

John Hayden said the Board is not prepared to act without having the Environmental Impact Assessment reviewed on behalf of the Town.

Dan MacRitchie said the assessment was provided to the Town by email on July 3rd as directed. It is not their fault if there was a breakdown on the Town side. It was also discussed with Glenn that a peer review by Mike Cuomo from RCCD would be acceptable with the applicant. Mike Cuomo has been out to the site several times and knows the property well. They did the best they could with the lack of information that they received regarding who would perform the assessment.

Mike Price reiterated that it was the Board that was going to recommend the wetland scientist to do the review. Bill Meserve said perhaps Dan misunderstood but it was very clear to him what was supposed to take place. It doesn't make sense to have a developer do their own environmental impact assessment and if they did, it would be expected to have a peer review.

Glenn said the Conservation Commission received a contract from West Environmental July 6th to perform an environmental impact statement.

John reiterated that he is not prepared to make any decisions without benefit of a review of the report, on behalf of the Town.

Jeff Feenstra asked if the applicant would be opposed to having West Environmental perform the peer review. Dan MacRitchie commented that there is a conflict of interest between the applicant and West Environmental.

Bill Meserve and Mike Price would like West Environmental to do the assessment. Dan replied that the applicant is not agreeable and will not pay West Environmental for the peer review. This application was accepted on March 12, 2020 and we are now at 113 days. He does not believe the relief provided by the Emergency Order related to COVID, gives an endless time frame for the Board to act. We are past the statutory requirement to act on the application.

John Hayden said it was clear last month that we needed the environmental impact study in order to act on the conditional use permit and wetlands. He is not able to decide on this application without a peer review. If the applicant cannot wait until the peer review is completed the Board will move forward with a vote.

Jamie Thompson said that he recalls that we put the onus on the delivery of the study on the developer and he feels they met the spirit of what we requested. Unfortunately, Friday is a day that our Town Office is not open. In his opinion, having a peer review would be a preferable situation for us because we generally do that with all proposals. He feels we need to be timely with applications and we have not been timely with this applicant.

Dan MacRitchie added that the Conservation Commission request for an environmental assessment study came back in July 2019 and was reiterated in their November 2019 letter. The letters were never forwarded to him or the applicant until June 10, 2020. In his opinion, it was inappropriate to ask for the assessment when they were well past the statutory time limit.

Attorney Cronin stated that there is a long going conflict between the applicant and West Environmental and they wouldn't be able to accept the assignment anyways. He suggests having Mike Cuomo review the environmental impact assessment and get it done for the August meeting.

John Hayden replied that his recommendation is acceptable and appreciated. The Board shall get the assessment reviewed by RCCD for next month. John is comfortable with Mike Cuomo doing the review. The applicant is being reasonable to put the meeting off until August so the peer review can be done, and the Board can make an informed decision.

Bill Meserve asked if we can have RCCD address the items that the Conservation Commission outlined in their proposal to West Environmental.

John said it would not be unreasonable for the Conservation Commission to be in contact with RCCD regarding the environmental impact study to express their concerns. He is confident that Mike Cuomo will provide the Board with a professional peer review and give the Board the ability to make a confident vote. It is great that the applicant is allowing us to have the review and not have to vote tonight.

Bill Meserve would like the Conservation Commission to have a stake hold in the review.

Glenn suggested the Board have a work session with Mike Cuomo after he has completed the review to explain his findings. John added that if the meeting was a quorum of the Board, it would be a public meeting and Dan MacRitchie would be more than welcome to attend.

Glenn added that there is a chance that Mike Cuomo wouldn't be able to incorporate such a meeting with the Board but he could be available at the August meeting to report his findings and answer any questions.

Julie LaBranche said the original wetland delineation for the project was done by Gove Environmental. Is it a conflict for the applicant to hire a consultant they have already used to do the environmental impact study? They have already been a paid consultant on the project and now they are being paid to do an assessment that the Town was supposed to have an independent consultant do.

Julie questioned whether the Board would be receiving an environmental impact statement or an ecological review. An environmental impact statement goes way beyond evaluating the wetlands and ecology. It looks at land use conversion from forest to lawn, stormwater erosion, chloride from road salt, and habitat life and loss. She has not seen the report. If the content of the report does not meet the definition of an environmental impact statement, is it sufficient to satisfy what the planning board asked for and the Conservation Commission has been pursuing.

Jamie replied we get a peer review to ensure the scope of the report addresses those areas of impact that need to have further review. If they find something, they provide adequate evidence that it is a positive or negative to the site. We will be relying on the peer review to make sure this is an encompassing report that will identify if there is or isn't significant impact to the property and the surrounding abutters.

Additionally, Glenn will provide the scope of work from the Conservation Commission and West Environmental to Mike Cuomo.

A motion was made by Bill Meserve and seconded by Jeff Feenstra to move forward with a review of the Gove Environmental Impact Assessment submitted by the developer, by RCCD with the consultation of the Conservation Commission. All were in favor and the motion carried.

John said we will need to have the expectation that the report provided from RCCD will be a week prior to the August meeting. Glenn stated RCCD will want an escrow account established for the cost of the report.

Julie LaBranche asked if the fire chief has reviewed the installation specifications and maintenance criteria for the cistern that the Town will be taking over at some point. Also, whether the applicant had prepared easements for the cistern and stormwater management areas.

Jeff Feenstra said Fire Chief Buxton has reviewed and approved the plans for the cistern. We have five cisterns in town and Road Agent Brian Knipstein supervises the construction.

Julie asked about the maintenance agreement for the stormwater management areas which need to be maintained properly until the road is taken over by the Town. She also asked if a construction cost estimate had been prepared for the performance bond.

John indicated that the Board has a list of items for the conditions of approval. Glenn said he spoke with Tobin Farewell and he is willing to perform the inspections and any items post approval.

Dan MacRitchie suggested having an estimate for the performance bond in place prior to a vote.

John recalls a discussion last month on construction cost estimates and review and Glenn has spoken to Tobin Farwell. We talked about the applicant providing the cost estimate and Tobin would review it. Glenn stated our ordinance does indicate that our engineer would come up with the costs, but Tobin is more comfortable having the applicant provide the costs for him to review.

Larry Averill asked if the Board had discussed the impact of the development on the neighborhood and economically. John replied that the board has not moved beyond these issues. He is not sure how to address any more than they already have. Larry may bring up any concerns he may have at the August meeting.

A motion was made by Bill Meserve and seconded by Jamie Thompson to grant a waiver of the regulations to allow the applicant to provide the construction cost estimates for the towns engineer to review. All were in favor and the motion carried.

Mike Cuomo will be asked to attend the August meeting.

Julie LaBranche mentioned that until the road is accepted easements will need to be held by the developer for maintenance of the stormwater management systems, which are on private property. These easements are transferred to the Town once they take ownership.

John said the applicants should have those easements for the August meeting, if not, it can be a condition of approval.

A motion was made by Bill Meserve and seconded by Mike Price to continue the hearing until August 13, 2020. All were in favor and the motion carried.

John & Barbara Hayden-Continued Hearing-Site Plan Review-Map 202 Lot 4 & 10.1

John Hayden recused himself as Chair and Jeff Feenstra took over. John gave an update. As of yesterday, there were some unknowns regarding the DOT permit. He has already had a review done by the NH Department of Historic Resources. DOT has issued a conditional denial of his access onto Route 85. After his meeting with DOT, it was his understanding that the local District Office had no concerns with issuing the permit for a right in, right out access and if he amended his application there should be no issue with westbound left in access from Route 85. The only restriction on that entrance would be a left out of the lot, which he is fine with. They did discuss the Route 108 access point and they are in favor of the location and the design of the entrance. He anticipates Jones & Beach Engineering will have an amended application ready for his signature tomorrow, which he will deliver to District 6 Office.

Glenn will be contacting RCCD to conduct the peer review of the engineering and stormwater management of the plan. After John gets comments back from RCCD he will file for the Alteration of Terrain and Wetlands Permits.

A motion was made by Jeff Feenstra and seconded by Mike Price to continue the hearing until August. All were in favor and the motion carried.

Canis of Newfields LLC- Map 202 Lot 10, 11 & 12

Jim Mitchell was before the Board to ask permission to begin site work for the gas station/convenience store. They have not received their driveway permit from DOT. He would like to get started at the end of August with the water line installation to Route 85, site work and road work.

Jeff Feenstra commented that Water Commissioner Ray Buxton is still waiting on the plans from the Engineer for the water line extension. Jim Mitchell said there are few items that his Engineer needs to respond to which will be addressed in the next week. He would not begin any work until the plans are satisfactory to the Town's Engineer Hoyle Tanner.

Jim said DOT has agreed to their access points and the appropriate turning motions. The State may make geometry changes to the lane widths with striping. DOT is indicating that there may need to be changes made in the future. He is still waiting for a formal response.

Jim Mitchell said that if the Board is not comfortable with allowing him to move forward with road work until they have their DOT permit, he completely understands.

Mike Price commented that the Board would be setting a precedent if they allow site work to be done without final DOT approval. Glenn agreed. If we allow it for this developer, we will have to do it for all developers that ask. IN his opinion, the water extension is independent and could be allowed.

The Board was not in favor of Jim Mitchell performing any site work or road work, but he can move forward with the water line extension. The water line extension is separate from the Planning Board approval and the Board has no jurisdiction over it.

The March 2020 minutes were reviewed. A motion was made by Jeff Feenstra and seconded by Mike Price to approve the minutes. All were in favor and the motion carried.

The May minutes were reviewed, and minor changes were made. A motion was made by 3rd page John asked 99,000sf line below 100,000sf Bill Meserve as amended Jeff Feenstra.

A motion was made and seconded to adjourn the meeting at 8:37pm.

Respectfully submitted,